

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

LADARRON LASHON FIKES

PLAINTIFF

V.

CIVIL ACTION NO. 3:19-CV-492-KHJ-LRA

KEVIN BOYD

DEFENDANT

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation of United States Magistrate Judge Linda R. Anderson. [33]. That Report recommends that the Court grant Defendant's Motion to Dismiss [28] and dismiss the case without prejudice for Fikes' failure to prosecute. Written objections to the Report were due by December 18, 2020. The Report notified the parties that failure to file written objections to the findings and recommendations by that date would bar further appeal in accordance with 28 U.S.C. § 636. *Id.*

When no party has objected to a magistrate judge's report and recommendation, the Court need not review it de novo. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.1989).

The Magistrate Judge set this case for an omnibus hearing to be conducted by video on December 1, 2020, at 9:00 a.m. Fikes failed to appear at the hearing and did not contact the Court to request a continuance. Counsel for Defendant Detective Kevin Boyd did appear in person at the hearing and was ready to proceed. The Court notified Fikes of this hearing at the mailing address that he provided to the Court: Lauderdale County Detention Facility, 2001 5th Street, Meridian, Mississippi 39301. The Court mailed the Order [26] setting the hearing and the Order for a writ of habeas corpus ad testificandum [30] to Fikes at that address via the United States Postal Service. Both were returned as undeliverable, marked “Not here.” [32].

The Magistrate Judge then entered her Report and Recommendation [33] recommending that this case be dismissed without prejudice for failure to prosecute. Fikes has filed no objections to the Report and Recommendation. After review of the record, the Court, being fully advised in the premises, finds that the Report and Recommendation is neither clearly erroneous nor contrary to law, and should be adopted as the opinion of this Court. For these reasons,

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [33] of United States Magistrate Judge Linda R. Anderson, entered in this cause should be, and the same is, adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Defendant's Motion to Dismiss [28] is granted, and this case is DISMISSED WITHOUT PREJUDICE for failure to prosecute.

A separate Final Judgment will issue this day.

SO ORDERED, this the 29th day of December, 2020.

s/ Kristi H. Johnson
UNITED STATES DISTRICT JUDGE